

Application No.: 10/621135  
Amendment dated: May 18, 2005  
Reply to Office action of February 22, 2005

#### REMARKS/ARGUMENTS

The applicants request reconsideration of the rejection under 35 U.S.C. §102(a). The rejection is based on the conclusion that FIG. 8 represents prior art. However, the inventors, referring to themselves, point out in paragraph 0028 of their specification that FIG. 8 shows a tensioner "which we previously developed." The inventors' statement is confirmed by the fact that the inventors, Osamu Yoshida and Hiroshi Hashimoto, are named in GB 2,289,404, a published British patent application cited in the applicants' information disclosure in which FIG. 2 is substantially the same as FIG. 8 of the present patent application. The tensioner of FIG. 8 cannot be prior art under section 102(a) for the following reasons:

1. It is not shown to have been "known or used by others," before the invention of the present invention by Messrs. Yoshida and Hashimoto. Nor is it shown to have been known or used in the United States before the invention of the present invention.
2. The invention is not shown to have been patented or described in a printed publication in this or a foreign country before the invention of the present invention.

The present invention was made before August 8, 2002, the filing date of the applicant's Japanese priority application JP 2002-231831. There is no evidence that a description of the invention, or of the tensioner of FIG. 8, was published before August 8, 2002. British patent application 2,389,404, for example, was published on December 10, 2003. The

Application No.: 10/621135  
Amendment dated: May 18, 2005  
Reply to Office action of February 22, 2005

application that resulted in the corresponding U.S. patent, 6,808,466, was published under publication number 2003/0186764 on October 2, 2003. Corresponding patents and patent applications in other countries, listed below, were likewise not published before August 8, 2002:

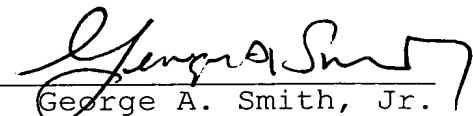
Japanese patent 3415612  
German application 10312300 A1  
Chinese application 1448644 A  
Thai laid open publication 61512.

Upon review of Patent 6,808,466, it appears that an obviousness-type double patenting rejection would have been appropriate. To expedite the prosecution of this application, we submit herewith a terminal disclaimer, disclaiming the portion of the term of any patent granted on the present application beyond the expiration of patent 6,808,466.

In summary, section 102(a) is not applicable, and reconsideration and allowance of this application are requested.

Reconsideration and withdrawal of the requirement for amended drawings, are also requested for the reasons set forth above.

Respectfully submitted,  
HOWSON & HOWSON

By   
George A. Smith, Jr.  
Reg. No. 24,442  
Howson & Howson  
Box 457  
Spring House, PA 19477  
Telephone: 215 540 9200  
Facsimile: 215 540 5818

Enclosures

Application No.: 10/621135  
Amendment dated: May 18, 2005  
Reply to Office action of February 22, 2005

AMENDMENTS TO THE DRAWINGS:

In view of statements that corrected drawings are required in reply to the Office action to avoid abandonment, and the statement that the drawing objection will not be held in abeyance, the applicants request entry of the enclosed replacement sheet, in which FIG. 8 is labeled "prior art," but only on condition that the requirement for amended drawings is not withdrawn in view of the remarks below. An annotated sheet of drawing, showing the propose change, is also enclosed.

Fig. 8  
(PRIOR ART)

